

Amend Env-Dw 717.20, eff. 11-21-09 (doc. #9600), by revising the introductory language and paragraph (n), and inserting paragraph (s), to read as follows:

Env-Dw 717.20 ***Significant Deficiencies***. Any of the following conditions ~~identified during a sanitary survey at a community or non-community water system~~ shall constitute a significant deficiency:

{no changes to paragraphs (a) through (m)}

(n) Certified operator, if required, is ~~not of~~ ***below*** the appropriate grade;

{no changes to paragraphs (o) through (r)}

(s) ***Any other significant deficiency identified in Env-Dw 720.03.***

Readopt with amendment Env-Dw 717.21, eff. 11-21-09 (doc. #9600), to read as follows:

Env-Dw 717.21 ***Notice of Significant Deficiencies; Treatment Techniques and Corrective Actions Options and Corrective Action Plans.***

(a) ***The department shall inform the owner of the groundwater system of all significant deficiencies in writing.***

~~(ab) Unless~~ ***The notice issued pursuant to (a), above, shall directed by the department require the owner to either:***

(1) ***Implement a specific corrective action pursuant to (e-d), below, within a specific 120 days or such earlier time as is specified pursuant to (e-e), below; or***

(2) ~~the owner of the groundwater system shall e~~ ***Consult with the department prior to within 30 days after receiving written notice for the purpose of developing a corrective action plan (CAP) as specified in (f), below. which identifies what action(s) will be taken and the schedule upon which the action(s) will be taken and within 30 days after receiving:***

~~(1) Written notice of the significant deficiency as identified in Env-Dw 717.20; or~~

(2c) ***The owner of a groundwater system shall consult with the department within 10 days of receiving w*** ~~Written notice from a laboratory that a groundwater source sample collected in accordance with Env-Dw 717.11 is ***positive for E. coli*** positive to determine what corrective action needs to be taken or whether a CAP as specified in (f), below needs to be developed.~~

{(b) has been moved and renumbered as (l), below}

~~(ed)~~ ***The corrective action directed by department shall consist of one or more of the following, as necessary to correct the problem and protect public health:***

(1) Correct all significant deficiencies;

(2) Provide an alternate source of water;

(3) Eliminate the source of contamination; or

(4) Provide treatment that reliably achieves 4-log treatment, as specified in Env-Dw 717.13.

~~(e-e)~~ ***The department shall specify an earlier a compliance deadline of less than 120 days if:***

(1) The actions to be taken can reasonably be implemented in a shorter period of time; and

(2) An earlier date is needed to protect public health.

{(d) has been moved and renumbered as (i), below}

(f) If an owner is required to develop a corrective action plan (CAP) pursuant to (b)(2) or (c), above, then within 30 days after the required consultation the owner shall develop and submit to the department a CAP, which identifies the action(s) that will be taken to correct the system's deficiencies and the schedule upon which the action(s) will be taken.

(g) If any of the significant deficiencies cannot be corrected within 120 days of the date of a notice issued pursuant to (a), above, or received from the laboratory pursuant to (c), above, the CAP submitted by the system owner shall identify interim measures that will be taken in order to protect the health and safety of persons served by the system pending final action.

(h) The department shall approve a CAP proposed by the system owner if:

(1) The action(s) and schedule for taking the action(s) will correct all problems within a time frame that is protective of public health; and

(2) If any significant deficiencies cannot be corrected within 120 days of the date of the notice, the CAP identifies interim measures that will be taken in order to protect the health and safety of persons served by the system pending final action.

~~(d-i)~~ The owner shall not make any modifications to the approved CAP ~~unless such modifications receive prior~~ ***without first obtaining approval for the modifications*** from the department in accordance with ~~(i-j)~~ ***and (k), below.***

(j) To request approval for modifications to the action(s) and/or schedule in an approved CAP, the owner shall submit a request in writing to the department which explains the requested modification(s) and the reason(s) why the CAP as modified meet the criteria for approval specified in (k), below.

~~(i-k)~~ The department shall approve a modification to a CAP ~~approved pursuant to (h), above, if the modification:~~

(1) The modification w~~Was~~***was*** made necessary due to circumstances beyond the control of the system owner; and

(2) The CAP as modified w~~Will~~***will*** correct all remaining problems and be equally as protective of public health.

~~(b-l)~~ ~~Subject to (e), below, Within 120 days of the date of a notice issued pursuant to (a) or (c), above, the owner of a groundwater system shall, within 120 days of being notified pursuant to (a), above:~~

~~(1) Have completed the corrective action(s) as directed by the department pursuant to (e), below, including interim measures~~ ***fully corrected all significant deficiencies; or***

~~(2) Be in compliance with a CAP approved by the department pursuant to (h), below~~ ***above.***

~~(f-m)~~ The owner of a groundwater system who has been directed to take corrective action ***or to implement a CAP*** shall notify the department within 30 days of completion of the corrective action ***or CAP, as applicable.***

~~(g-n)~~ ***A system shall be subject to enforcement as specified in RSA 485:58 for any f***~~Failure to complete the response and correct the deficiency(ies) and for any failure to comply with an approved CAP shall subject the system to enforcement as specified in RSA 485:58.~~

Readopt with amendment Env-Dw 1210.01, eff. 02-25-10 (doc. #9660), to read as follows:

Env-Dw 1210.01 Sanitary Survey Field Inspections. Sanitary survey field inspections shall be as specified in the applicable requirements of Env-Ws 306 or successor rules in subtitle Env-Dw720, ~~except any reference to “public water system” shall be deemed to mean “privately owned redistribution system”.~~

APPENDIX

Rule Section	State Statute(s) Implemented	Federal Regulation(s) Implemented
Env-Dw 717.20	RSA 485:1; RSA 485:3, I & VI	40 CFR 141.403; 40 CFR 141.405(a)
Env-Dw 717.21	RSA 485:3, I & VI;	40 CFR 141.202; 40 CFR 141.203 40 CFR 141.402(h); 40 CFR 141.404
Env-Dw 1210.01	RSA 485:1, II(a), (d), & (h); RSA 485:4, III; RSA 485:41, I & V	